

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

REVIEW OF FEDERAL COMMUNICATIONS	)	
COMMISSION'S TRIENNIAL REVIEW ORDER	)	CASE NO.
REGARDING LOCAL CIRCUIT SWITCHING	)	2003-00347
For DS1 ENTERPRISE CUSTOMERS	)	

**CONFIDENTIALITY PETITION**  
**PURSUANT TO 807 KAR 5:001 SECTION 7**

Petitioner, BellSouth Telecommunications, Inc. ("BellSouth"), hereby moves the Public Service Commission of Kentucky (the "Commission"), pursuant to KRS 61.878 and KAR 5:001, Section 7, to classify as confidential BellSouth's Responses to the Data Requests, item numbers 1a(i) and 3d, of Commission Staff to Incumbent Local Exchange Carriers dated October 10, 2003.

The Kentucky Open Records Act exempts certain commercial information from the public disclosure requirements of the Act. KRS 61.878(1)(c)1. To qualify for this commercial information exemption and, therefore, protect the information as confidential, a party must establish that disclosure of the commercial information would permit an unfair advantage to competitors and the parties seeking confidentiality if openly discussed. KRS 61.878(1)(c)1; 807 KAR 5:001, Section 7. The Commission has taken the position that the statute and rules require the party to demonstrate actual competition and the likelihood of competitive injury if the information is disclosed.

As grounds for this motion, BellSouth states that the information is competitively significant and could be used to BellSouth's detriment by its competitors. BellSouth's

Response to Commission Staff's Data Requests, Item No. 1a(i) provides the number of high capacity circuits provided at retail to end users. Public disclosure of this information would provide BellSouth's competitors with a competitive advantage. The data is valuable to competitors and potential competitors in formulating strategic plans for marketing and overall business strategies. This information relates to the competitive interest of BellSouth and disclosure would impair the competitive business of BellSouth. For these reasons, this information is considered proprietary.

Also, the attachment to BellSouth's Response to the Commission Staff's Data Request, Item No. 3d, contains customer-specific information that is Customer Proprietary Network Information ("CPNI") as defined by federal law. The clear language of 47 U.S.C. §222(a) requires that this information be maintained as confidential. KRS 61.878(1)(k) and 807 KAR Section 72(d), protect all public records or information the disclosure of which is prohibited by federal law or regulation. Therefore, CPNI information must be afforded proprietary treatment.

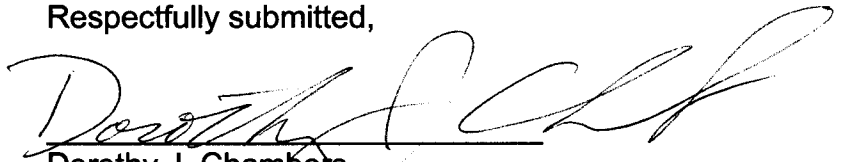
The Commission also should grant confidential treatment to the proprietary information identified above for the following reasons:

- (1) The information for which BellSouth is requesting confidential treatment is not known outside of BellSouth;
- (2) The information is not disseminated within BellSouth and is known only by those of BellSouth's employees who have a legitimate business need to know and act upon the information;

- (3) BellSouth seeks to preserve the confidentiality of this information through all appropriate means, including the maintenance of appropriate security at its offices; and
- (4) By granting BellSouth's petition, there would be no damage to any public interest.

For these reasons, the Commission should grant BellSouth's request for confidential treatment of BellSouth's Responses to Items 1a(i) and 3d of the Commission Staff's Data Requests.

Respectfully submitted,



Dorothy J. Chambers  
601 W. Chestnut Street, Room 407  
P. O. Box 32410  
Louisville, KY 40232  
(502) 582-8219

R. Douglas Lackey  
Meredith E. Mays  
Suite 4300, BellSouth Center  
675 W. Peachtree Street, N.E.  
Atlanta, GA 30375  
(404) 335-0747

COUNSEL FOR BELL SOUTH  
TELECOMMUNICATIONS, INC.